

SENATE CHAMBER,
AUSTIN, TEXAS, May 21, 1873. }

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Avinger, the reading of the journal of yesterday was dispensed with.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Enrolled Bills beg leave to report that they have carefully examined and compared Senate bill No. 52, "An act entitled an act to amend an act prescribing the mode of proceeding in district courts in matters of probate, approved August 15, A. D. 1870," and find the same correctly enrolled.

H. R. LATIMER, Chairman.

Senator Finlay, chairman *pro tem.* of the Committee on State Affairs, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 310, to be entitled "An act to incorporate the city of San Antonio, and grant a new charter to said city, and to repeal an act entitled an act to incorporate the city of San Antonio, approved July 17, 1856, and an act entitled an act to amend the act to incorporate the city of San Antonio, approved February 11, 1870, and an act entitled an act to incorporate the city of San Antonio, and grant a new charter to said city, approved August 13, 1870," having carefully considered the same, ask leave to report the same back and recommend its passage with the accompanying amendments.

GEO. P. FINLAY, Chairman *pro tem.*

Amend article one, section five, by striking out all after the word "election" in line six, to the end of section.

Amend article three, section three, by striking out all after the word "lands" in line five, down to and including the word "years" in line seven.

Amend article three by striking out section forty-four.

Amend article four, section ten, by striking out the word "eighteen" in line two, and inserting in lieu thereof the word "twenty-one."

Amend article four, section thirteen, by adding after

the word "annum" in line seven, the words "and such fees as justices of the peace are entitled to under the law in like cases."

Amend article four, section fourteen, by adding at the end of section the words "connected with the administration of the affairs of the city of San Antonio."

Amend article four, section thirty-three, by adding at the end of section the words "also such fees as sheriffs or constables are entitled to under the law for like services."

Senator Finlay moved to suspend the rules to consider the report just read. Carried.

Senator Tracy moved that the bill be postponed until 7:30 o'clock P. M. Carried.

A message was received from the House informing the Senate of the passage by the House of the following bills:

Senate bill No. 116, "An act for the relief of Lyeurgus E. Griffith."

Senate bill No. 8, "An act for the relief of John S. Menifee."

Senate bill No. 102, "An act for the relief of the heirs of Anthony McGee."

House bill No. 95, "An act to provide for the registration of the voters in the city of Denison, in Grayson county, Texas, preparatory to an election to be held for city officers on the second Monday in June, A. D. 1873."

Senator Broughton moved to suspend the rules to take up out of its regular order the bill first reported from the House, viz.: House bill No. 95, "An act to provide for the registration of voters in the city of Denison, in Grayson county, Texas, preparatory to an election, etc."

The bill was read first time; rules suspended, read second time and passed to a third reading; rules further suspended, bill read third time and passed.

Senator Dohoney submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your committee on the part of the Senate, appointed to confer with a like committee on the part of the House, to take into consideration amendments made by the House to Senate bill No. 100, "An act to provide for the merger of the Waco and Northwestern Railroad Company, with its properties, rights, privileges and franchises in the Houston and Texas Central Railway Company," agree to make the following report:

1. That the House recede from that portion of its

amendment designated as section two, included between the word "road," in line seven, and the word "and," in line twelve of said section.

2. That the Senate concur in the residue of the amendments adopted by the House.

E. L. DOHONEY,
Chairman Senate Committee.

C. B. SABIN,
Chairman House Committee.

The report was adopted by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Gaines, Henry, King, Latimer, Pyle, Rawson, Randle, Swift, Tracy, Word and Mr. President—21.

Not voting—Senators Broughton, Ruby, Saylor, Sayers and Shelley.

Senator Finlay in the chair.

Senator Shelley, chairman of the Committee on Finance, returned the general appropriation bill to the Senate. One hundred copies were ordered printed, and the bill made the special order for to-morrow at 10 o'clock A. M.

Senator Finlay submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your select committee, to whom was referred House bill No. 869, to be entitled "An act to amend the tenth and twelfth sections of an act to regulate proceedings in the district courts, approved May 13, 1846," having carefully considered the same, ask leave to report it back and recommend its passage with the accompanying amendments.

GEO. P. FINLAY, Chairman.

Amend section one by striking out the word "six" and inserting in lieu thereof the word "three," line nineteen.

Amend section two by adding at the end thereof the following: "*provided, however*, that in suits where service of the process has been made by publication, no such judgment by default shall be taken at the term of the court to which such process is returnable, but all such suits shall be continued until the next term of the court, when final judgment by default may be taken as in other cases; *and provided also*, in all cases, that if the defendant, in person or by his agent or attorney, shall appear in the case, without service of process being made or perfected, then such appearance shall have the same effect as if the service of such process was made or perfected."

Senator Finlay in the chair.

Senator Pyle introduced a bill to be entitled "An act to incorporate the town of Terrell, in Kaufman county." The bill was read first time and not referred.

Senator Fountain introduced a bill to be entitled "An act to provide for the protection of proprietors of hotels and keepers of inns, restaurants and eating houses." The bill was read first time and referred to Committee on Judiciary No. 1.

Senator Sayers introduced a bill to be entitled "An act to incorporate the town of Elgin, in Bastrop county, Texas." The bill was read first time and not referred.

Senator King, chairman of the Committee on Indian Affairs, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Indian Affairs, to whom was referred House joint resolution No. 96, "Joint resolution of thanks to each of the persons engaged in the late encounter with the Indians in Live Oak county," having carefully considered the same, beg leave to report it back and recommend that it do pass, with accompanying amendment.

HENRY C. KING, Chairman.

Amend by adding at the end of line five of the resolution, "and that each of the persons above named be presented by the State with a Winchester rifle, as a testimonial of appreciation, and the sum of one thousand dollars, or so much as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to carry into effect this provision of this joint resolution.

House bill No. 850, "An act prescribing the times of holding general elections in this State," was taken up.

Senator Franks moved a call of the Senate. Call sustained.

Absent—Senator Hall.

Senator Franks moved to suspend the rules to take up House bill No. 857, "An act to provide for holding an election for county officers in the county of Waller, and authorizing commissioners to hold the same." Carried.

Senator Gaines moved to postpone the consideration of the bill to 7:30 o'clock P. M. Lost.

The bill was then read second time.

Senator Franks moved to amend the bill by striking out the words "first Monday in July," and inserting the

words "third Saturday in August." The amendment was adopted.

The bill then passed to a third reading; rules suspended, read third time and passed.

Senator Tracy offered the following resolution, which was adopted:

Resolved, That at every session of the Senate hereafter the names of absentees at roll call shall be entered upon the journal.

On motion of Senator Broughton the rules were suspended, and Senate bill No. 30, "An act to organize and incorporate the Sherman, Wichita and Rio Grande Railroad Company," together with the report of the committee recommending a substitute, was taken up.

The bill was read second time and the substitute adopted.

Senator Dohoney moved to amend section one by inserting the names of T. C. Bass and A. S. Johnson. Amend same section by inserting the name of "Alexander" before "Cox." Adopted.

The bill as amended was then ordered engrossed; rules suspended, read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Franks, Gaines, Henry, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Sayers, Swift, Tracy and Word—25.

Not voting—Senators Hall, King, Shelley, Tendick, and Mr. President.

On motion of Senator Saylor, the rules were suspended and Senate bill No. 324, "An act to incorporate the Sabine and Santa Fé Central Railway Company, and to provide the aid of the State of Texas in constructing the same," was taken up.

The bill was read second time.

Senator Saylor moved to amend by striking out section thirteen. Carried.

The bill as amended was then ordered engrossed; rules suspended, read third time and passed by the following vote:

Yeas—Senators Baker, Cole, Evans, Ford, Finlay, Flanagan, Fountain, Franks, Gaines, King, Pyle, Randle, Saylor, Shelley, Swift, Tracy and Word—17.

Nays—Senators Avinger, Dillard, Dohoney, Henry, Latimer, Rawson and Sayers—7.

Not voting—Senators Ball, Broughton, Hall, Ruby, Tendick and Mr. President.

A message was received from the House informing the Senate of the passage by the House of the following bills, originating in that body:

No. 896, "An act to regulate the fees of office."

No. 883, "An act to incorporate the Wilson Creek and Colorado Canal Company."

No. 563, "An act to amend sections three, five and six of the act to incorporate the Carthage Branch Railroad Company, approved May 22, 1871, and to grant lands in aid of constructing said road."

No. 712, "An act granting lands to the International Railroad Company."

And that the House had appointed Messrs. Rimes, Harrison and Wilder a conference committee on Senate amendments to House bill No. 179, "An act to authorize the County Court of Falls county to levy and collect a special tax;" and Messrs. Shaw, Hollingsworth and Adriance a conference committee on Senate amendments to House bill No. 185, "An act to define the duties of the Comptroller;" and had concurred in Senate amendments to House bill No 113, "An act concerning landlords and tenants."

On motion of Senator Pyle, House bill No. 700, "An act granting land to the Buffalo Bayou Ship Channel Company in aid of the improvement of the navigation from Bolivar Channel, near the Gulf of Mexico, to the city of Houston," was taken up and made special order for 12 o'clock M.

The hour having arrived, the special order was taken up, viz., the school bill, with the veto of the Governor.

On motion of Senator Dohoney, it was postponed and made the special order for to-morrow at 11 o'clock A. M. by the following vote:

Yeas—Senators Avinger, Baker, Ball, Dillard, Dohoney, Evans, Finlay, Henry, King, Latimer, Randle, Sayers, Shelley, Swift, Tracy and Word—16.

Nays—Senators Broughton, Ford, Flanagan, Fountain, Franks, Gaines, Pyle, Rawson, Ruby, Saylor and Tendick—11.

Senator Ford submitted the following report, which was adopted:

Hon. E. B. Pickett, President of the Senate:

Sir: Your Committee of Conference on the disagree-

ment of the two houses on House bill No. 179, entitled "An act to authorize the County Court of Falls county to levy and collect a special tax for the purpose therein expressed," have had the same under consideration, and have agreed that the House adopt the amendments recommended by the Senate to the bill.

B. W. RIMES,

Chairman House Committee.

S. W. FORD,

Chairman Senate Committee.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: On behalf of your Committee on Enrolled Bills, I did to-day at 9:30 o'clock A. M., present to His Excellency the Governor, for his signature and approval, Senate bill No. 52, "An act entitled an act to amend an act prescribing the mode of proceeding in district courts in matters of probate, approved August 15, 1870."

H. R. LATIMER, Chairman.

Senator Ford offered the following resolution:

Resolved, That the resolution heretofore adopted prescribing the order of business, as to the character of bills to be acted upon during the remainder of the session, be and is hereby rescinded.

The Chair decided that the resolution should lay on the table one day under the rule.

Senator Saylor appealed from the decision of the Chair, and the Chair was sustained by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Flanagan, Franks, Henry, King, Latimer, Pyle, Sayers, Shelley, Swift, Tracy and Word—17.

Nays—Senators Baker, Ford, Fountain, Rawson, Randle, Ruby, Saylor and Tendick—8.

The hour having arrived, the special order was taken up, viz.: Senate joint resolution No. 4, proposing amendments to section twenty of article one of the Bill of Rights, and to sections three and four of article five, and to sections twenty-eight, forty and forty-eight of article twelve, general provisions of the Constitution of the State of Texas.

On motion of Senator Shelley, the Senate proceeded to consider the resolution by sections.

Section twenty was adopted by the following vote:

Yeas—Senators Avinger, Ball, Broughton, Dohoney, Evans, Finlay, Henry, King, Latimer, Pyle, Saylor, Sayers, Shelley, Swift, Word and Mr. President—16.

Nays—Senators Ford, Flanagan, Fountain, Gaines, Rawson, Ruby and Tracy—7.

Not voting—Senators Baker, Cole, Franks, Hall, Randle and Tendick.

Section two was adopted by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dohoney, Evans, Ford, Finlay, Fountain, Henry, King, Latimer, Pyle, Rawson, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Word and Mr. President—23.

Nays—Senators Franks, Gaines and Tracy—3.

Not voting—Senators Dillard, Flanagan, Hall and Randle.

Section three was adopted by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dohoney, Evans, Ford, Finlay, Fountain, Henry, King, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Word and Mr. President—24.

Nays—Senators Franks and Gaines—2.

Not voting—Senators Dillard, Flanagan, Hall and Tracy.

Section four was adopted by the following vote:

Yeas—Senators Avinger, Ball, Broughton, Cole, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Henry, King, Latimer, Pyle, Rawson, Randle, Saylor, Sayers, Shelley, Swift, Tracy, Word and Mr. President—23.

Nays—Senators Baker, Franks and Gaines—3.

Not voting—Senators Dillard, Hall, Ruby and Tendick.

Section twenty-eight was adopted by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dohoney, Evans, Ford, Finlay, Fountain, Henry, King, Latimer, Pyle, Rawson, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—23.

Nays—Senators Franks and Gaines—2.

Not voting—Senators Dillard, Flanagan, Hall, Randle and Mr. President.

Section forty was adopted by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dohoney, Evans, Fountain, Henry, King, Latimer, Pyle, Rawson, Ruby, Sayers, Shelley, Swift, Tracy, Word and Mr. President—20.

Nays—Senators Ford, Franks, Gaines, and Saylor—4.
Not voting—Senators Dillard, Finlay, Flanagan, Hall, Randle and Tendick.

Senator Ruby moved to amend section forty-eight, line two, by striking out the word "may" and inserting "shall." Lost by the following vote:

Yeas—Senators Gaines and Ruby—2.

Nays—Senators Avinger, Baker, Broughton, Cole, Dillard, Dohoney, Evans, Finlay, Flanagan, Fountain, Franks, Henry, King, Latimer, Pyle, Rawson, Randle, Ruby, Sayers, Shelley, Swift, Tracy, Word and Mr. President—24.

Not voting—Senators Ball, Ford, Hall and Tendick.

The Senate refused to adopt section forty-eight by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Dillard, Dohoney, Evans, Finlay, Flanagan, Henry, Rawson, Swift and Word—13.

Nays—Senators Cole, Ford, Fountain, Franks, Gaines, King, Latimer, Pyle, Ruby, Saylor, Sayers, Shelley, Tendick and Tracy—14.

Not voting—Senators Hall, Randle and Mr. President.

House joint resolution No. 484, "In relation to the printing of railroad charters," was taken up.

Senator Fountain proposed to amend section two by striking out the words "which are now in force in this State," in lines three and four, and insert the words "which have been or may be passed at this session of the Legislature." Lost by the following vote:

Yeas—Senators Baker, Cole, Dillard, Dohoney, Finlay, Fountain, Pyle, Shelley, Swift, Tendick and Tracy—11.

Nays—Senators Avinger, Ball, Evans, Ford, Franks, Gaines, Henry, Latimer, Rawson, Randle, Sayers and Word—12.

Not voting—Senators Broughton, Flanagan, Hall, King, Ruby, Salory and Mr. President.

The resolution was then read third time and lost.

House bill No. 48, "An act regulating juries," was taken up, together with an amendment offered by Senator Fountain on yesterday, to strike out the enacting clause.

Senator Evans moved to lay the amendment on the table. Carried by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Finlay,

Franks, Henry, King, Latimer, Sayers, Shelley, Swift and Word—13.

Nays—Senators Baker, Ford, Flanagan, Fountain, Gaines, Rawson, Randle, Saylor, Tendick and Tracy—10.

Not voting—Senators Broughton, Hall, Pyle, Ruby and Mr. President.

Senator Word offered the following amendment: Strike out all of section seven after the word "therefor" in line three. Adopted by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Ford, Finlay, Fountain, Franks, Gaines, Pyle, Rawson, Randle, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—19.

Nays—Senators Dillard, Dohoney, Evans, Henry, King, Latimer and Ruby—7.

Not voting—Senators Broughton, Flanagan, Hall and Mr. President.

Senator Dohoney offered the following amendment: Amend section eight by adding the words "all members of organized fire companies actively engaged in the performance of their duties." Adopted by the following vote:

Yeas—Senators Avinger, Baker, Cole, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, King, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tendick, Tracy and Word—22.

Nays—Senators Dillard, Franks, Gaines and Henry—4.

Not voting—Senators Ball, Broughton, Hall and Mr. President.

Senator Dohoney in the chair.

The bill was read third time and passed by the following vote:

Yeas—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Henry King, Latimer, Pyle, Sayers, Shelley, Swift and Word—15.

Nays—Senators Baker, Ford, Flanagan, Fountain, Franks, Gaines, Rawson, Randle, Ruby, Saylor, Tendick and Tracy—12.

Not voting—Senators Broughton, Hall and Mr. President.

The special order was taken up, viz., House bill No. 700, "An act granting land to the Buffalo Bayou Ship Channel Company in aid of the improvement of the nav-

igation from Bolivar channel, near the Gulf of Mexico, to the city of Houston." The bill was read second time and passed to a third reading; rules suspended, read third time and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Flanagan, Fountain, Franks, Gaines, Henry, King, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Sayers, Shelley, Swift, Tensdick, Word and Mr. President—28.

Not voting—Senators Hall and Tracy.

On motion of Senator Tracy, the Senate adjourned till 4 o'clock P. M.

AFTERNOON SESSION.

Senate met at 4 P. M., pursuant to adjournment. Roll called; quorum present.

Senator Latimer, chairman of the Committee on Enrolled Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Enrolled Bills beg leave to report that they have examined and compared the following bills:

Senate bill No. 82, "An act for the relief of John S. Menifee."

Senate bill No. 102, "An act for the relief of the heirs of Anthony McGee."

Senate bill No. 116, "An act for the relief of Lycurgus E. Griffith."

And find the same correctly enrolled.

H. R. LATIMER, Chairman.

House bill No. 850, "An act prescribing the times of holding general elections in the State," was taken up.

Senator Fountain moved a call of the Senate. Call sustained.

Absent—Senators Broughton, Dohoney, Flanagan, Hall, Rawson, Randle and Tracy.

Senator Finlay moved to suspend the call of the Senate. Carried.

Senator Fountain again moved a call of the Senate. Call sustained.

Absent—Senators Broughton, Dohoney Flanagan, Hall, Rawson, Randle and Tracy.

The sergeant at-arms was dispatched for the absent Senators.

House bill No. 319, "An act to provide for a change of venue in civil and criminal causes," was taken up.

The bill and substitute reported by the committee were read.

Senator Finlay offered the following amendments to the substitute: Amend section two, line eight, by striking out the words, "his agent and attorney."

Substitute section eight as follows: "That all laws in conflict with this act be and the same are hereby repealed, and that this act take effect and be in force from and after its passage."

Senator Henry offered the following amendment: Amend by striking out the word "shall" wherever it occurs before the words "be granted," in sections one and two, and insert in lieu thereof the word "may."

On motion of Senator Franks, the bill was made special order for Friday next, and one hundred copies of the bill and the amendments just offered ordered printed.

A message was received from the House informing the Senate that the House had passed the following bills:

House bill No. 548, "An act to amend the first section of an act to incorporate the Texas Banking and Insurance Company, approved first day of July, A. D. 1870."

House bill No. 917, "An act to prohibit the sale of spirituous or intoxicating liquors within three miles of Bordenville, in Colorado county, Texas."

House bill No. 918, "An act for the protection of life and property from the use of explosive kerosene and other inferior oils."

House bill No. 916, "An act amending the twelfth section of an act to organize courts of justices of the peace and county courts, and to define their jurisdiction and duties."

House bill No. 924, "An act to reincorporate the city of Corsicana, in Navarro county."

House bill No. 792, "An act to organize the county of McMullen."

House bill No. 919, "An act to appropriate three hundred dollars to buy postage stamps for the office of Superintendent of Public Instruction."

House bill No. 654, "An act amendatory of and supplementary to an act entitled an act to amend sections two and twelve of an act to incorporate the Hempstead Eastern and Western Trunk Railway Company of Texas, approved August 12, 1870, passed April 28, 1871."

House bill No. 925, "An act to reserve the right of way for any railroad company now incorporated by the laws of the State of Texas, or that may hereafter be incorporated by the Legislature of the State, across or through any lands granted to the Atlantic and Pacific Railroad Company."

Senator Dohoney moved to suspend the rules to take up out of its order House bill No. 925, "An act to reserve the right of way for any railroad company now incorporated by the laws of the State of Texas, or that may hereafter be incorporated by the Legislature of the State, across or through any lands granted to the Atlantic and Pacific Railroad Company." Carried.

The bill was read first time; rules suspended, read second time and passed to a third reading; rules further suspended, read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Evans, Ford, Finlay, Fountain, Franks, Henry, King, Latimer, Pyle, Rawson, Randle, Ruby, Saylor, Shelley, Swift, Tendick, Tracy, Word and Mr. President—25.

Nay—Senator Sayers—1.

Not voting—Senators Broughton, Flanagan, Gaines and Hall.

The following communications were received from his Excellency the Governor, and referred to the Committee on Retrenchment and Reform:

EXECUTIVE OFFICE, STATE OF TEXAS,)
AUSTIN, May 21, 1873. }

Hon. E. B. Pickett, President of the Senate:

SIR: I return to the Senate, where it originated, the act entitled "An act to provide for the payment of sheriffs for guards employed in conveying prisoners to the Penitentiary of the State in certain cases."

It having been called to my attention repeatedly that excessive, and in some instances also fraudulent, charges were made for transportation of prisoners to the Penitentiary, I found it necessary for the protection of the Treasury of the State to issue, on the twelfth of April of last year, instructions to the sheriffs and inspector of the Penitentiary in regard to the number of guards to be allowed sheriffs and the payment therefor. A copy of these instructions is herewith transmitted for the information of the Legislature.

I believe that these instructions, since issued, have saved thousands to the Treasury. If the amount appropriated in this act is a correct estimate, that saving has been at least twenty thousand dollars, but evidently your special appropriation for this purpose might have been very considerably more than twenty thousand dollars if they had not been issued, because four out of five of the sheriffs of the State have acquiesced in and obeyed them, and consequently have no claim for extra guards. The instructions partly explain my reason for issuing them.

Not especially referred to therein were certain frauds called to my attention, such, for instance, as the practice of some sheriffs of taking an order from the district judge for a large number of guards, and drawing pay therefor, without actually employing that number.

Some judges, too, were in the habit of allowing a number of guards considerably beyond any real necessity, having in view, perhaps, a purpose to make this branch of the sheriffs' business a lucrative one, rather than simply to provide for the security of prisoners. It was intended to give the sheriffs to understand that they could not thus speculate.

As I remarked, the instructions have been complied with by four-fifths of the sheriffs of the State, and I will add, the result shows that the number of guards allowed therein are amply sufficient. No case has been reported to me where prisoners have escaped *en route* to the Penitentiary.

The expense of transportation of prisoners to the penitentiary, even with these stringent measures to prevent fraud and imposition, is already very burdensome, amounting to upwards of thirty thousand dollars per annum. If the door is again to be thrown open, the estimates for that branch of the service may as well be doubled at once in your general appropriation act for the annual support of the government, but I am sure that the patriotic impulses of the houses, when they understand this matter fully, will co-operate with me in my efforts to close this leakage.

I do not think that any sheriff has a just claim against the State for any extra guards beyond those allowed. I therefore ask a reconsideration of the act.

Very respectfully,

EDMUND J. DAVIS, Governor.